

REMARKS/ARGUMENTS

The Office has identified the following groups and is requiring restriction to one of the same:

Group I: Claims 1-18, drawn to an organic silicon polymer; and

Group II: Claims 19-20, drawn to a method of making an organic silicon polymer.

Applicants elect with traverse **Group I**, Claims 1-18, for examination. In addition, Applicants provisionally elect, with traverse, Species I, a film or layered material comprising a polymer composed of an organic silicon compound. The claims encompassing this species are 1-14 & 16-18 (see page 4, point 13. of the Restriction Requirement).

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Office if restriction is not required (MPEP §803). The burden is on the Office to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Office has the burden of explaining why each group lacks unity with the others (MPEP § 1893.03(d)), i.e. why a single general inventive concept is nonexistent. The lack of a single inventive concept must be specifically described.

The Office alleges that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Groups I and II lack unity of invention because even though the inventions of these groups require the technical feature of a polymer of an organic silicon compound represented by general formula (1) [which] is not a special technical feature as it does not make a contribution over the prior art in view of Kamachi et al. (WO 03/092334) (hereafter "*Kamachi*").

Annex B of the Administrative Instructions under the PCT, paragraph b (Technical Relationship), states, emphasis added:

The expression "special technical feature" is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, ***considered as a whole***, makes over the prior art. The determination is made on the contents of the claims as ***interpreted in light of the description*** and drawings (if any).

Applicants respectfully submit that the Office did not consider the contribution of each invention, ***as a whole***, in alleging the lack of a special technical feature over the cited reference. Applicants also respectfully submit that the Office has not provided any indication that the contents of the claims ***interpreted in light of the description*** were considered in making this allegation. Therefore, the Office has not met the burden necessary to support the assertion of a lack of unity of the invention.

Accordingly, the requirement for restriction is no longer tenable and should be withdrawn.

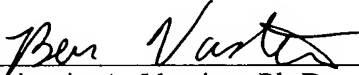
In regard to the requirement for election, Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP § 808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Accordingly, the requirement for election is no longer tenable and should be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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